



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 7

SUSPENSION

127 Suspension of measure authorising detention

(1) Where—

- (a) a patient is subject to a compulsory treatment order that authorises the measure mentioned in section 66(1)(a) of this Act; and
- (b) subject to subsection (2) below, the patient's responsible medical officer grants a certificate specifying a period^{F1}... during which the order shall not authorise that measure,

the order does not authorise that measure during that period.

[^{F2}(1A) A certificate under subsection (1) above may specify—

- (a) a single period not exceeding 200 days, or
- (b) a series of more than one individual period falling within a particular 6 month period.]

[^{F3}(2) The total period that an order does not, by reason of certification under subsection (1) above, authorise the measure mentioned in section 66(1)(a) of this Act must not exceed 200 days within any period of 12 months (whenever counted from).]

[^{F4}(2A) For the purpose of subsection (2) above—

- (a) a day does not count towards the total period if the measure is (by reason of such certification) not authorised for a period of 8 hours or less in that day,

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- (b) a single period (specified in such certification) of more than 8 hours and less than 24 hours, whether in one day or spanning two days, is to count as a whole day towards the total period.]

(3) Where—

- (a) a patient is subject to^{F5}—
 - (i) an interim compulsory treatment order that authorises the measure mentioned in section 66(1)(a) of this Act^{F6}; or
 - (ii) an interim order made under section 105 or 106 of this Act, extending, extending and varying or varying, as the case may be, a compulsory treatment order that authorises that measure;]; and
- (b) the patient’s responsible medical officer grants a certificate specifying a period during which the order shall not authorise that measure,

the order does not authorise that measure during that period.

[^{F7}(3A) A certificate under subsection (3) above may specify—

- (a) a single period, or
- (b) a series of more than one individual period.]

^{F8}(4)

[^{F9}(4A) The purpose for which a certificate under subsection (1) or (3) above is granted must be recorded in the certificate.]

(5) If the responsible medical officer considers that it is necessary—

- (a) in the interests of the patient; or
- (b) for the protection of any other person,

a certificate under subsection (1) or (3) above may include conditions such as are mentioned in subsection (6) below; and any such conditions shall have effect.

(6) Those conditions are—

- (a) that, during the period specified in the certificate, the patient be kept in the charge of a person authorised in writing for the purpose by the patient’s responsible medical officer; and
- (b) such other conditions as may be specified by the patient’s responsible medical officer.

(7) Where a patient’s responsible medical officer proposes to grant a certificate under subsection (1) above specifying—

- (a) a period of more than 28 days; or
- (b) a period which, when taken together with the period specified in any other certificate granted under that subsection, would exceed 28 days,

the responsible medical officer shall, before granting such a certificate, give notice of the proposal to the persons mentioned in subsection (8) below.

(8) Those persons are—

- (a) the patient;
- (b) the patient’s named person;
- (c) the patient’s general medical practitioner; and
- (d) the mental health officer.

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- (9) Where a certificate is granted under subsection (1) above specifying a period of more than 28 days, the patient's responsible medical officer shall, before the expiry of the period of 14 days beginning with the day on which the certificate is granted, give notice of it to the Commission.

Textual Amendments

- F1** Words in s. 127(1) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(2)(a)**, 61(2); [S.S.I. 2017/197](#), **art. 2**, **sch.**
- F2** S. 127(1A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(2)(b)**, 61(2); [S.S.I. 2017/197](#), **art. 2**, **sch.**
- F3** S. 127(2) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 10(2)(a)**, 61(2); [S.S.I. 2017/197](#), **art. 2**, **sch.** (with **art. 9(a)**)
- F4** S. 127(2A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 10(2)(b)**, 61(2); [S.S.I. 2017/197](#), **art. 2**, **sch.** (with **art. 9(a)**)
- F5** In s. 127(3)(a) "- (i)" inserted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), **art. 1**, **sch. 1 para. 32(12)(a)**
- F6** S. 127(3)(a)(ii) and word inserted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), **art. 1**, **sch. 1 para. 32(12)(b)**
- F7** S. 127(3A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(2)(c)**, 61(2); [S.S.I. 2017/197](#), **art. 2**, **sch.**
- F8** S. 127(4) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(2)(d)**, 61(2); [S.S.I. 2017/197](#), **art. 2**, **sch.**
- F9** S. 127(4A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(2)(e)**, 61(2); [S.S.I. 2017/197](#), **art. 2**, **sch.**

Modifications etc. (not altering text)

- C1** S. 127(2) excluded (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Transitional and Savings Provisions\) Order 2005 \(S.S.I. 2005/452\)](#), **arts. 1**, **6(1)**, 12(1)

Commencement Information

- I1** S. 127 in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), **art. 2** and as amended (22.9.2005) by [S.S.I. 2005/459](#), **art. 2**)

128 Suspension of other measures

(1) Where—

- (a) a patient is subject to a compulsory treatment order that authorises any of the measures mentioned in section 66(1)(b) to (h) of this Act; and
- (b) subject to subsection (2) below, the patient's responsible medical officer grants a certificate specifying a period not exceeding [^{F10}90 days] during which the order shall not authorise such of those measures as are specified in the certificate,

the order does not authorise the measures specified in the certificate during that period.

(2) If the sum of—

- (a) the period that the responsible medical officer proposes to specify in a certificate under subsection (1) above; and
- (b) the period specified in any other certificate granted under that subsection in respect of the same patient,

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would exceed [^{F10}90 days], the responsible medical officer may not grant a certificate under that subsection.

[^{F11}(2A) A day is to count as a whole day towards the 90 days mentioned in subsection (2) above if any part of that day falls within the period mentioned in paragraph (a) or (b) of that subsection.]

- (3) Where a patient's responsible medical officer proposes to grant a certificate under subsection (1) above, the responsible medical officer shall, before granting such a certificate, give notice to the persons mentioned in subsection (4) below of—
 - (a) the measures and the period that the responsible medical officer proposes to specify in the certificate; and
 - (b) the responsible medical officer's reasons for proposing to specify those measures.
- (4) Those persons are—
 - (a) the patient;
 - (b) the patient's named person; and
 - (c) the mental health officer.
- (5) Where a certificate is granted under subsection (1) above, the patient's responsible medical officer shall, before the expiry of the period of 14 days beginning with the day on which the certificate is granted, give notice to the Commission of—
 - (a) the granting of the certificate;
 - (b) the measures and the period specified in the certificate; and
 - (c) the responsible medical officer's reasons for specifying those measures.

Textual Amendments

- F10** Words in s. 128(1)(2) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 10(3)(a)**, 61(2); [S.S.I. 2017/197, art. 2, sch.](#) (with art. 9(b))
- F11** S. 128(2A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 10(3)(b)**, 61(2); [S.S.I. 2017/197, art. 2, sch.](#) (with art. 9(b))

Commencement Information

- I2** S. 128 in force at 5.10.2005 by [S.S.I. 2005/161, art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

129 Certificates under sections 127 and 128: revocation

- (1) Subsection (2) below applies where a certificate is granted under section 127(1) or (3) or 128(1) of this Act.
- (2) If the patient's responsible medical officer is satisfied that it is necessary—
 - (a) in the interests of the patient; or
 - (b) for the protection of any other person,
 that the certificate be revoked, the responsible medical officer may revoke the certificate.
- (3) Where the responsible medical officer revokes under subsection (2) above a certificate granted under subsection (1) or (3) of section 127 of this Act, the responsible medical officer shall, as soon as practicable after the revocation, give notice of it to—

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- (a) the patient;
 - (b) the patient's named person;
 - (c) the mental health officer;
 - (d) where a person is authorised for the purposes of subsection (6)(a) of that section, that person; and
 - (e) the patient's general medical practitioner.
- (4) Where the responsible medical officer revokes under subsection (2) above a certificate granted under section 128(1) of this Act, the responsible medical officer shall, as soon as practicable after the revocation, give notice to the persons mentioned in paragraphs (a) to (c) of subsection (3) above of—
- (a) the revocation; and
 - (b) the responsible medical officer's reasons for revoking the certificate.
- (5) Where the responsible medical officer revokes under subsection (2) above a certificate granted under section 127(1) or (3) or 128(1) of this Act, the responsible medical officer shall, before the expiry of the period of 14 days beginning with the day on which the certificate is revoked, give notice of the revocation to the Commission.

Commencement Information

- I3** S. 129 in force at 5.10.2005 by S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)